



INTERCOUNTRY ADOPTION CONGRESS

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MAIN 678 393 7200

FAX 678 393 7222

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October 31, 2003

Response to State/AR-01/96 and State/AR-01/98
U.S. Department of State, CA/OCS/PRI
Adoption Regulations Docket Room
SA-29
2201 C Street, NW
Washington, DC 20520

Dear Sirs:

I am writing to express deep concern for the impact of these regulations. If implemented in the current format, the negative impact will be tremendous to the adoption industry with the greatest cost being to the child. I encourage you as you analyze and hopefully rewrite these regulations that you keep a focus on the best interest of the child. If it were your own child in the system, how would you want the system to benefit them?

The following sections need to be addressed:

Section 96.33

- (b) I received a quote from our auditor after he reviewed the language in these documents. Moore, Stephens, and Tiller located in Atlanta stated that it would cost from \$8,000-\$10,000 for an agency audit assuming that the accounting is already in good shape.
- (e) First of all, operating expenses is not defined which will greatly differ from agencies working in multiple countries and running other entities such as orphanages, etc. Regardless of the ultimate definition, three months of operating expenses is practically impossible for most agencies to set aside without closing their doors.

If the concern is coming from parents that have given large upfront funds to agencies to then experience the agency going out of business, you should require that all agencies receive funds for services as those services are rendered. This is the common practice of most responsible agencies.

- (h) The insurance of "\$1,000,000 per occurrence" is totally unreasonable and highly unusual. An umbrella insurance policy is expected but a "per occurrence" policy encourages lawsuits. An umbrella policy should be maintained per agency based on the amount of risk involved. Is the intent to protect the very few at the expense of the children and other adoptive parents?



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- (i) Bonding should follow normal industry guidelines to minimize fraud. Individuals directly involved with financial transactions or check signing should be the only individuals required to be bonded.

Section 96.35

b:

- (4) The ten year period should only be a 3-5 year period and this should not be just mandatory for agencies but this should also apply to the accrediting agency. Agencies have a right to know if there have been complaints against the accrediting agency.
- (5) The complaints that should be open for review should be defined as severe or of a defined level of concern requiring review. Each level of complaint should be assigned an action.

Section 96.39

- (d) It would be more helpful for the regulations to state what duties an agency can't waive.

Section 96.49

- (c) The agency should be granted the ability to utilize their expertise in withdrawing referrals in less than a week if necessary. Remember, each time a referral is placed for a set period of time, a child is held hostage for that length of time. A child being placed on hold multiple times may ultimately miss the opportunity to be placed at all. With the increasing use of technology, it is reasonable to expect that this process should naturally become shorter not longer. 48-72 hours would be in the child's best interest.

Section 96.54

- (a) (2) In regards to the use of an exchange or registry for at least 30 days, registries do not serve the best interest of the child. Since the United States is primarily a receiving country, the instances of sending children out to be adopted are usually related to special needs children, a relative, or a hard to place child. These children need placement quickly and there is not a demand for them within the



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United States generally. Don't create bad policy and hold them hostage for even a day longer than necessary. Time is their greatest enemy and they don't care where their prospective parents live as long as they are safe.

Section 96.83

(B) (3) While this list may have not been intended to prioritize, it would read much better if "protecting the best interest of the child" was number 1 on the list. Adoptive parents can make decisions for themselves and they have recourse when dissatisfied. U.S. foreign policy has an entire department dedicated to those issues but the children can't speak or defend themselves so we should make a point to keep them at the top of the list.

Section 96.88

(a) "No administrative review"??? The thought of a few entities or individuals being able to essentially shut down an agency with no recourse is frightening. This **MUST** be addressed and a full review board put in place.

I submit these concerns with the belief that they will be addressed and I make a formal request that the public comment time be extended for an additional 30 days beyond November 15, 2003, to give adequate time for all concerned to educate themselves on these issues and respond. While this information is posted on your website, it is difficult to find unless you know exactly where to look.

Thank you in advance for your attention to these issues.

Sincerely,

Lynda Lee Smith
Executive Director